

# *ADULT PROTECTION ACT* INFORMATION SESSION

# Introduction

## ***ADULT PROTECTION ACT*** **(effective June 30, 2014)**

- Replaces the *Neglected Adults Welfare Act* (1973) and provides legislative authority for delivery of services to adults in need of protective intervention.
- The intent of the Act: To protect adults who are at risk of abuse and neglect, and who do not understand or appreciate that risk.
- Includes Regulations.

## ***ADULT PROTECTION ACT***

### **Key changes with the new Act:**

- Inclusion of abuse.
- “Capacity” versus “Competency”.
- Appointment of Regional Directors.
- Three step process: Report, Evaluate and Investigate.
- Emergency intervention process (without warrant).
- Automatic referral to Public Trustee for financial management of adult declared in need of protective intervention.

# Statistics

(April 1, 2015– March 31, 2016)

- 300 reports/evaluations; less than 20% proceeded to investigation;
- Majority of reports came from community (85%)
- Level of Risk : Low(47%),Moderate(27%),High(21%). Extremely High(5%);
- Neglect/Self-neglect most frequent allegations;
- Followed by Physical Abuse, Financial Abuse, Verbal Abuse allegations;
- Some reports involve more than one allegation;
- Majority of reports are of adults over age 60 (80%);
- Majority of reports are about females (62%).

# Application and Service Principles

- This Act applies to all NL adults meeting the criteria of an adult in need of protective intervention, regardless of living arrangement.
  - Adult in Need of Protective Intervention: lacks capacity and
    - a) is incapable of caring for himself/herself or refuses, delays, or is unable to make provision for adequate care and attention for himself/herself; or
    - b) is abused or neglected.
  - Living arrangements: include, but are not limited to, a private residence, personal care home, alternate family care home, hospital or long term care facility.

# Application and Service Principles

## Capacity:

An adult is able to understand information and decisions concerning his/her health care, physical, emotional, psychological, financial, legal, residential or social needs.

An adult is able to appreciate the reasonable foreseeable consequences of a decision or the lack of a decision.

All adults are presumed to have full capacity unless proven otherwise.

# Application and Service Principles

- Self-neglect: the failure of an adult who lacks capacity to take adequate care of himself/herself where that failure causes - or is reasonably likely within a short period of time to cause - serious physical or psychological harm, or substantial damage to/loss of assets.

# Application and Service Principles

- Abuse: the deliberate mistreatment of an adult who lacks the capacity to protect himself/herself that causes - or is reasonably likely within a short period of time to cause:
  - a) serious physical, psychological or emotional harm; or
  - a) substantial damage to/loss of assets, and includes intimidation, humiliation and sexual assault.



# Application and Service Principles

- Neglect: the failure to provide care, assistance, guidance or attention to an adult who lacks capacity that causes - or is reasonably likely, within a short period of time to cause - serious physical, psychological or emotional harm or substantial damage to/loss of assets.

# Application and Service Principles

- Every adult has the right to live his/her lifestyle of choice.
- The best interests of the adult must be at the center of all interventions.
- Every adult has the right to be involved in decision-making.
- Every adult has the right to the most effective but least intrusive forms of support.

# Application and Service Principles

- Intervention should be specifically designed for the individual.
- Family ties and contacts should be preserved when appropriate.
- If an adult desires, he/she should be encouraged to obtain support/advice from family and friends in decision-making and assistance with communication.

# Adult in Need of Protective Intervention

## Key Components

**Report**

**Evaluate**

**Investigate (if necessary)**

**Assess Risk**

**Assess Capacity**

**Understand Court Procedures**

**Understand Emergency Intervention**

# Adult in Need of Protective Intervention

## REPORTING

- A report can be received by a regional health authority (RHA) social worker from acute care, long term care or the community, an RHA manager/director or a peace officer.
- Legal obligation to report: **1-855-376-4957**
- No action against reporter who acts in good faith.
- Failure to report can result in fine and/or imprisonment.
- Level of risk is assessed initially and response is determined in accordance with the *Risk Continuum* guidelines.
- A report alleging abuse, neglect and/or self-neglect is recorded on the *Adult Protection Report Form*.
- Every report is evaluated.

# Adult in Need of Protective Intervention

## RISK ASSESSMENT GUIDELINES AND CONTINUUM

Extremely High	High	Moderate	Low
<b>Immediate response</b>	<b>Within 24 hours</b>	<b>Within 48 hours</b>	<b>Within 5 clear days</b>
Physical injury that requires immediate medical attention (e.g., fractures, internal injuries, head trauma, burns); threats to harm the adult or oneself; danger to others; deprivation of food, shelter, heat or life saving medication; forced sexual acts; physical injury resulting from an “honour” crime; abandonment or homelessness; negative/no involvement from family/ friends; appears to lack capacity.	Physical injury that results in pain or discomfort (e.g., beating, kicking, biting, force feeding); social isolation; unwarranted use of medication; threats to abandon or withhold food/ money; withdrawal of essential care (e.g., assistance with incontinent care and meal preparation); negative/no involvement from family/friends; appears to lack capacity.	Threats of non-life threatening physical injury (e.g., bruising, slapping); verbal aggression; name calling; unwelcome sexual comments/jokes; not allowing access to bank accounts; not allowing religious or cultural practices; not reporting or taking action on a medical condition that is not immediately life threatening; inadequate home support services (e.g., no assistance with bathing or meal preparation); limited involvement from family/friends; appears to lack capacity.	Lack of cleanliness; inadequate nutrition; inadequate bathing; forgetfulness taking medication; limited involvement from family/ friends; appears to lack capacity.

# Adult in Need of Protective Intervention

## EVALUATING

- Social worker, who receives the initial report, completes the evaluation (*AP Evaluation Form*) as follows:
  - Interview the report source (if possible).
  - Refer to police, if criminal activity is suspected.
  - Interview and/or observe the adult who may be in need of protective intervention.
  - Assess the level of risk - *Risk Continuum*.
  - Gather collateral information, with consent.
- Decision:
  - a) have no further involvement;
  - b) provide professional/supportive services; or
  - c) proceed with investigation.

# Adult in Need of Protective Intervention

## INVESTIGATING

- Continue to assess risk.
- Refer to police, if criminal activity is suspected.
- Review records and gather information (consent is not required).
- Interview the adult who may be in need of protective intervention.
- Coordinate a capacity assessment (role of social worker, whenever possible).
- Decision:
  - have no further involvement;
  - provide professional/supportive services; or
  - complete a service plan and make an application to court for an order to declare an adult in need of protective intervention.



# Adult in Need of Protective Intervention

## **CAPACITY ASSESSMENT**

- Whenever possible the assessment is coordinated by a social worker.
- The best capacity assessment is a thorough one involving the adult (and spokesperson, if necessary) and a team of professionals.
- Each professional will complete a capacity assessment through the lens of his/her discipline.
- Collectively, these assessments contribute to a comprehensive capacity assessment.

# Adult in Need of Protective Intervention

## **COURT PROCEDURES**

- Warrant/tele-warrant to enter.
- Order to conduct an investigation.
- Warrant to remove, if necessary.
- Application for a declaration that an adult is in need of protective intervention (provincial director of adult protection).
- Legal counsel for adult who may be in need of protective intervention.
- A declaration that an adult is in need of protective intervention (judge).
- Appeal the judge's order or refusal to make an order (adult).

# Adult in Need of Protective Intervention

## EMERGENCY INTERVENTION

- Immediate removal of the adult to a safe place without a warrant if there is reason to believe the adult's life or health is in imminent danger.
- Emergency medical intervention, if necessary.
- Assets/property immediately secured. This may be a responsibility assumed by the Office of the Public Trustee.
- Specific time frames are identified for seeking court orders following an emergency intervention.

# General

## SERVICE PLAN

- Prepared by social worker following an evaluation and investigation.
- Updated by social worker when court orders have been made.
- Contains details of the services and programs required to reduce risk and meet the care needs of an adult who may be in need of protective intervention.
- Completed and reviewed with the adult whenever possible and, if applicable, his/her spokesperson minimally every six months and annually by formal review committee.

## CONFIDENTIALITY

- The collection, use and disclosure of information under the Adult Protection Act may be subject to the *Personal Health Information Act* (PHIA) and the *Access to Information and Protection of Privacy Act* (ATIPPA).
- During the **evaluation**, the adult must consent before information can be gathered and shared.
- The Act allows a social worker to **investigate** without the adult's consent, if necessary.
- Access to information may be denied.

# Contact Information

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